

## EXHIBIT 7

Picard v Trust U-Art Fourth

Conference 11/19/2018

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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES INVESTOR PROTECTION :  
CORPORATION, : Adv. Pro. No.  
Plaintiff-Applicant, : 08-01789(SMB)  
v. : SIPA LIQUIDATION  
BERNARD L. MADOFF INVESTMENT : (Substantively  
SECURITIES, LLC, : Consolidated)  
Defendant. :  
-----x  
In Re: :  
BERNARD L. MADOFF, :  
Debtor. :  
-----x  
IRVING H. PICARD, Trustee :  
for the Liquidation of :  
Bernard L. Madoff Investment :  
Securities LLC, : Adv. Pro. No.  
Plaintiff, : 10-04995(SMB)  
v. :  
TRUST U/ART FOURTH O/W/O ISRAEL  
WILENITZ, EVELYN BEREZIN :  
WILENITZ, individually, and as  
Trustee and Beneficiary of the :  
Trust U/ART FOURTH O/W/O ISRAEL  
WILENITZ and SARA SEIMS, as :  
Trustee of the Trust U/Art  
Fourth O/W/O Israel Wilenitz, :  
Defendants. :  
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CONFERENCE  
Monday, November 19, 2018

Picard v Trust U-Art Fourth

Conference 11/19/2018

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1 TRANSCRIPT OF PROCEEDINGS as  
 2 reported by NANCY C. BENDISH, Certified Court  
 3 Reporter, RMR, CRR and Notary Public of the  
 4 States of New York and New Jersey, at JAMS  
 5 offices, 620 Eighth Avenue, 34th Floor, New  
 6 York, New York on Monday, November 19, 2018,  
 7 commencing at 10:23 a.m.  
 8

BEFORE:

10 HON. FRANK MAAS (RET.), Arbitrator  
 11 finmaas@jamsadr.com  
 JAMS  
 12 620 Eighth Avenue  
 13 34th Floor  
 14 New York, New York 10018

APPEARANCES:

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 17 45 Rockefeller Plaza  
 18 14th Floor  
 19 New York, New York 10111-0100  
 BY: MAXIMILLIAN S. SHIFRIN, ESQ.  
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 NICHOLAS J. CREMONA, ESQ.  
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 For the Trustee Irving Picard

21 CHAITMAN LLP  
 22 465 Park Avenue  
 23 New York, New York 10022  
 BY: HELEN DAVIS CHAITMAN, ESQ.  
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 GREGORY M. DEXTER, ESQ.  
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 For the Defendants

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1 JUDGE MAAS: I thought one of the  
 2 problems you faced with third-party documents is  
 3 that they would only go back six years, and you  
 4 were looking for records that went back further.  
 5 My impression was that you were more interested  
 6 in the opposite, the Madoff Securities records.  
 7 But I understand that that's not what you're  
 8 seeking.

9 MS. CHAITMAN: No. And even if we  
 10 can only go back six years, Your Honor, and I  
 11 think that that's -- the Trustee served  
 12 subpoenas on all the institutions that did  
 13 business with Madoff, as I understand it. And  
 14 obviously he did that presumably in 2009. So if  
 15 it went back six years, it would be to 2002 or  
 16 '3. It's possible that Madoff kept records  
 17 earlier than that. In other words, he might  
 18 have had people who just microfilmed records  
 19 from an earlier period.

20 So, I'm not interested in any  
 21 records other than third-party trading records.  
 22 But we haven't been able to get them. I mean,  
 23 to take just one example, BNY Mellon, there are  
 24 certain statements but only for the year 2008, I  
 25 believe 2007 and '8, in the e-data room and

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1 JUDGE MAAS: Good morning,  
 2 everyone. We're here for Ms. Chaitman's motion  
 3 seeking to compel the Trustee to share access to  
 4 the entire database that the Trustee has  
 5 assembled. So the floor is yours, Ms. Chaitman.

6 MS. CHAITMAN: Your Honor, as I  
 7 laid out in our submission, we have been trying  
 8 for over two years to get access to all the  
 9 trading records, and we have not been able to do  
 10 so. These records are absolutely essential for  
 11 us to prove the defense that in fact Madoff was  
 12 purchasing securities. And we have already  
 13 established that we can prove it with respect to  
 14 some, but without a complete set of the trading  
 15 records it's impossible to do it.

16 So, what we really need is all the  
 17 trading records going back as far as they have  
 18 them. And just to be absolutely clear, we're  
 19 talking about third-party documents; we're not  
 20 talking about Madoff-generated documents. These  
 21 are documents bearing the letterhead of Bank of  
 22 New York Mellon, JPMorgan Chase, Fidelity,  
 23 Lehman Brothers, Bear Stearns et cetera. So  
 24 these are documents whose authenticity  
 25 presumably cannot be questioned.

1 there's no indication that the earliest  
 2 statement we have was the first statement.

3 So, at one point within the last  
 4 six months the Trustee had offered all defense  
 5 counsel access to the BLMIS database, which  
 6 seemed to me the easiest and least burdensome  
 7 way for the Trustee to comply with this request.  
 8 I don't know how anything in that database can  
 9 be privileged from the Trustee's perspective.  
 10 But if there's some way to segregate the trading  
 11 records, that would be fine. It's just that the  
 12 Trustee hasn't done that.

13 What the Trustee has done is given  
 14 me specific limited productions, which don't  
 15 really resolve the problem. I need to have  
 16 access to a database of all of the third-party  
 17 records.

18 MR. SHIFRIN: Your Honor, so  
 19 there's a lot I can say in response to that. I  
 20 think the first thing I think is worth  
 21 emphasizing is that there is a history to this  
 22 dispute.

23 JUDGE MAAS: Some of which I'm  
 24 part of.

25 MR. SHIFRIN: Yes, exactly. And

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1 JUDGE MAAS: He testified, I  
 2 thought I read someplace, that he bought -- I'm  
 3 hesitating because I want to say six billion.

4 MS. CHAITMAN: He did. That's  
 5 what he testified, that he maintained a  
 6 portfolio of six billion. It was a billion and  
 7 a half at four institutions. But what I'm  
 8 saying is since his testimony I have actually  
 9 found records of T-bills that were purchased at  
 10 Bank of New York Mellon, which he hadn't  
 11 mentioned.

12 JUDGE MAAS: Presumably you have  
 13 those records.

14 MS. CHAITMAN: I just have them  
 15 for 2008.

16 MR. CREMONA: Your Honor, I think  
 17 it's important to correct the record.  
 18 Respectfully, that's speculation and unsupported  
 19 conjecture. It's our position that no trades  
 20 were made on behalf of IA customers.

21 JUDGE MAAS: I understand the  
 22 dispute and I understand that Ms. Chaitman's  
 23 position either at the omnibus hearing or  
 24 individual trials will be that any trading that  
 25 occurred had to be for the benefit of a

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1 particular Madoff customer or that it should be  
 2 attributed at a minimum to a Madoff customer,  
 3 and there is no way that the two sides are going  
 4 to agree about that.

5 But part of your objection is that  
 6 these requests are overbroad, and what I was  
 7 trying to explore is whether we can test the  
 8 waters and see whether they are overbroad. So,  
 9 for example, picking Bear Stearns and giving Ms.  
 10 Chaitman all of the documents that are hits,  
 11 which is 653,000 documents, and if she can find  
 12 trading records that haven't been produced, that  
 13 would inform the discussion. If she can't, that  
 14 also would inform the discussion.

15 MS. CHAITMAN: I believe that  
 16 that's a good idea.

17 JUDGE MAAS: Let me hear from  
 18 counsel first for the Trustee.

19 MR. SHIFRIN: One thing that's  
 20 worth emphasizing here is that the account  
 21 numbers that we ran were account numbers for all  
 22 known BLMIS/Madoff banks. There were about a  
 23 hundred of them, give or take. So more than  
 24 just the names of the banks.

25 If we're running account numbers

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1 across ESI and we're searching for trading  
 2 records, I think the documents that contain the  
 3 account numbers are the ones that are actually  
 4 going to be a third-party record because a  
 5 third-party record is going to contain the  
 6 account information, right?

7 JUDGE MAAS: Right.

8 MR. SHIFRIN: If we're searching  
 9 for the names of the institutions, you're going  
 10 to get calendar appointments, emails, and I know  
 11 Your Honor would like to explore what this  
 12 population looks like, but we've done this  
 13 already with two of the search terms and Ms.  
 14 Chaitman is on record for complaining about what  
 15 was in there.

16 Again, if there are going to be  
 17 additional -- I can't obviously state this  
 18 definitively, I could never say this  
 19 definitively, but if we're dealing with search  
 20 terms here, the documents that are amenable to  
 21 problems with search terms are the hard copy  
 22 documents. And we are prepared to give her all  
 23 of those, with the subset of that population of  
 24 documents that we have identified as potentially  
 25 of interest to Ms. Chaitman, without

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1 representing that they actually reflect real  
 2 trading activity, without representing anything  
 3 about them, simply in an effort to identify  
 4 documents that are arguably responsive to Ms.  
 5 Chaitman's request, and she can sort through it.

6 MS. CHAITMAN: May I just ask, are  
 7 you saying that you're going to give me all the  
 8 documents with hits including group in this  
 9 column?

10 MR. SHIFRIN: We will give you --  
 11 if we produce all of the scanned hard copy  
 12 documents --

13 MS. CHAITMAN: Is that this  
 14 column? I don't know the term, scanned hard  
 15 copy.

16 MR. SHIFRIN: That's the entire  
 17 BLMIS database. The scanned hard copy are a  
 18 subset of the entire BLMIS database.

19 MS. CHAITMAN: Right.

20 JUDGE MAAS: A fairly small subset  
 21 by comparison, right?

22 MR. SHIFRIN: Right, because ESI,  
 23 just by its nature, is enormous. I mean, we're  
 24 dealing with an enormous volume of data. One  
 25 million hard copy pieces of documents, and

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<p>1       that's not pages, by the way, that's every      2       scanned piece of paper, every piece of paper      3       recovered from an entire company from three      4       floors, 17th, 18th 19th floor, every piece of      5       document, every hard copy document coming from      6       every office, work space, et cetera.      7       So, to the extent there are      8       documents within that population, that one      9       million document population that would hit on      10      those search terms, they would be included,      11      absolutely.</p> <p>12      MS. CHAITMAN: Let me just, if I      13      may, Your Honor, may I ask a question?</p> <p>14      JUDGE MAAS: Yes.</p> <p>15      MS. CHAITMAN: Let's assume that      16      there was someone in Madoff's offices who would      17      annually collect all third-party statements,      18      let's just assume that, and put them in a      19      warehouse in Queens. That would not be      20      encompassed in this, right?</p> <p>21      MR. SHIFRIN: Anything that's      22      unprocessed and not in the BLMIS database, so an      23      unscanned box of documents, no, that wouldn't be      24      encompassed in this.</p> <p>25      JUDGE MAAS: But you also have</p>	<p>1       pre-1992.      2       MR. SHIFRIN: Well, no, that      3       includes some post-'92 as well. Every microfilm      4       reel that we restored and processed, you have      5       all those documents. The only documents you      6       don't have are the reels that we did not restore      7       and did not process, but that dispute you raised      8       with Judge Bernstein and he gave you      9       instructions.</p> <p>10      MS. CHAITMAN: Right. That's      11      about a thousand reels that haven't been      12      restored and processed.</p> <p>13      MR. SHIFRIN: I don't have the      14      numbers before me, but something along those      15      lines. But there's no microfilm document that      16      Ms. Chaitman doesn't have.</p> <p>17      JUDGE MAAS: When you say it was      18      raised with Judge Bernstein and he ruled, what      19      specifically did he rule?</p> <p>20      MR. SHIFRIN: Again, this is a      21      part of how this dispute has been kind of      22      muddied. Ms. Chaitman, in our view, improperly      23      raised the microfilm issue before Judge      24      Bernstein in connection with some briefing      25      relating to the Madoff deposition. This was</p>
<p>1       indices that the Trustee furnished, I think at      2       my direction, so that you could go through the      3       indices and say there may be something in box      4       63.</p> <p>5       MR. SHIFRIN: And they're      6       substantive, too.</p> <p>7       JUDGE MAAS: And I gather that      8       hasn't happened.</p> <p>9       MR. SHIFRIN: Not once. And there      10      are descriptors in each line item that tell you      11      what's in the box.</p> <p>12      JUDGE MAAS: And the Trustee      13      further went through that exercise -- correct me      14      if I'm wrong -- and found some microfiche that      15      potentially was responsive and restored all of      16      those.</p> <p>17      MR. SHIFRIN: We restored all      18      pre-1992 microfilm reels because that's what she      19      was after at the time and we produced all      20      documents restored from those microfilm reels.      21      In fact, Ms. Chaitman now has all documents      22      contained and stored on every single microfilm      23      reel that the Trustee has restored. So there's      24      no --</p> <p>25      MS. CHAITMAN: But that's just the</p>	<p>1       approximately three months after Your Honor      2       entered the March 2017 order.</p> <p>3       In that briefing she reiterated      4       her usual accusations that we're hiding trading      5       records. In our view she was improperly      6       circumventing Your Honor's March 2017 order.      7       That's what she did.</p> <p>8       Now, for a variety of reasons, at      9       that first hearing it took -- Judge Bernstein      10      wasn't aware of the March 2017 order. We had a      11      subsequent hearing and one of the first things      12      that Judge Bernstein said at the subsequent      13      hearing was that part of the problem, and I'm      14      paraphrasing what he said, is that I learn      15      something new each time you guys come here.      16      What he was referring to was Your Honor's March      17      2017 order.</p> <p>18      And on the basis of that order, he      19      didn't order anything but he suggested that Ms.      20      Chaitman identify a small number of reels. The      21      Trustee restored those reels, produced those      22      documents, and if Ms. Chaitman can identify      23      something in there that gives reason to suspect      24      there are additional documents of interest on      25      these other reels, she can make that showing.</p>